

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

DELSIA STOKES,

Plaintiff,

v.

Case No.: _____

THE FRESH MARKET, INC.,

Defendant.

NOTICE OF REMOVAL

COMES NOW, The Fresh Market, Inc., the defendant in the above-referenced cause, which was originally filed as Case No.: CT-4803-20, in the Circuit Court of Shelby County, Tennessee, with full reservation of all rights, including the reservation of all defenses permitted by Rule 12 of the Federal Rules of Civil Procedure and all other procedural and substantive defenses to the alleged claims of Plaintiff Delsia Stokes (“Plaintiff”), does hereby give notice of removal of this action to the United States District Court for the Western District of Tennessee, Western Division, and respectfully state as grounds for removal the following:

1.

Plaintiff is an adult resident citizen of the State of Tennessee, as shown by the Complaint that is attached hereto as **Exhibit A**.

2.

Defendant The Fresh Market, Inc. is a corporation organized under the laws of the State of Delaware with its principal place of business in the State of North Carolina, as shown by the Secretary of State for the State of Tennessee. Complete diversity of citizenship exists between Plaintiff and Defendant.

3.

This Court has original jurisdiction over this action under 28 U.S.C. §1332 because complete diversity of citizenship existed between Plaintiff and Defendant at the time the Complaint was filed and such complete diversity of citizenship exists at present. The alleged amount in controversy in this case exceeds the sum or value of \$75,000.00 (Seventy-Five Thousand Dollars), exclusive of interest and costs, as Plaintiff demands damages well in excess of the requisite jurisdictional amount, as is also shown by the attached **Exhibit A**. This action may, therefore, be properly removed pursuant to 28 U.S.C. §1441.

4.

A copy of the Complaint that is **Exhibit A** hereto was served upon Defendant by counsel for Plaintiff on or about December 2, 2020. 28 U.S.C. §1446(b) requires an action to be removed within thirty (30) days of receipt by a defendant through service or otherwise of a copy of the initial pleading or later document setting forth the claim for relief. Therefore, the filing of this Notice is timely as Defendant's answer and defenses would be due on or about January 1, 2021.

5.

Venue for this removal is proper as the Circuit Court of Shelby County, Tennessee, is located within the district and division of this Court.

6.

Defendant is this date giving written notice of the filing of this Notice of Removal to all parties and is, this date, filing a copy of this Notice of Removal with the Clerk of the Circuit Court of Shelby County, Tennessee. Defendant will also promptly file with this Court a complete copy of the state court file on this matter, certified as such by the Clerk of the state court.

WHEREFORE, Defendant prays that this Notice of Removal be deemed good and sufficient and that the aforesaid action be removed from the Circuit Court of Shelby County, Tennessee, to the United States District Court for the Western District of Tennessee, Western Division, for all further proceedings.

DATED: 12/21/2020

Respectfully submitted,

/s/ Richard Underwood

RICHARD D. UNDERWOOD, TNB 014515

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Attorney for Defendant

CERTIFICATE OF SERVICE

I, RICHARD D. UNDERWOOD, attorney for Defendant, do hereby certify that I have this day caused to be mailed, postage prepaid, a true and correct copy of the above and foregoing document to:

Mr. Shannon Elsea
219 Adams Avenue
Memphis, TN 38103

and

Shelby County Circuit Clerk
140 Adams Avenue, Ste 324
Memphis, TN 38103

Dated: 12/21/2020

/s/ Richard Underwood

RICHARD D. UNDERWOOD